

Appl. No. : 10/074,564  
Filed : February 11, 2002

### REMARKS

#### Amendments to the Claims

Applicants respectfully request entry of the Amendments to the Claims set forth above.

Claim 1 has been amended to incorporate the limitations of Claim 2, which the Office has indicated would be allowable if rewritten in independent form. Dependent Claims 2-4 have been canceled. Dependent Claims 5, 6, 9, 14, 15, 17, and 20 have been amended to make them dependent on Claim 1 instead of canceled Claim 2.

Claim 27 has been amended to incorporate the limitations of Claim 32, which the Office has indicated would be allowable if rewritten in independent form. Claims 32 and 69 have been canceled. Withdrawn Claims 47-50 have also been canceled (withdrawn Claims 51-54 were canceled previously in the Amendment submitted December 2, 2003).

Claim 70 has been amended to incorporate the limitations of Claim 71, which the Office has indicated would be allowable if rewritten in independent form. Claims 71 and 76-80 have been canceled.

Claims 34, 39, 40 and 43, which the Office has indicated would be allowable if rewritten in independent form, have been rewritten in independent form as new Claims 81-84.

Applicants reserve the right to file divisional and/or continuation applications containing claims directed to all or part of the subject matter of any claims amended, withdrawn, or canceled at any time during the prosecution of this application, and thus unclaimed subject matter is not dedicated to the public.

#### Allowable Subject Matter

The Office indicates that Claims 55-68 and 72-75 will be allowed if the double patenting rejection is overcome. As discussed below, a terminal disclaimer is provided herewith to overcome the double patenting rejection. Therefore, Applicants respectfully submit that Claims 55-68 and 72-75 are in condition for allowance.

The Office objects to Claims 2, 22, 30, 32, 34, 37-41, 43-45 and 71 as being dependent upon a rejected base claim, but indicates that these claims would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. Applicants respectfully submit that Claims 1, 27 and 70 are versions of Claims 2, 32 and 71, respectively, that have been rewritten in the manner suggested by the Office. Claims 34, 39, 40

Appl. No. : 10/074,564  
Filed : February 11, 2002

and 43 have been canceled and re-written in independent form as Claims 81-84. Therefore, Applicants respectfully request allowance of independent Claim 1 and dependent Claims 5-26; independent Claim 27 and dependent Claims 28-31 and 33-46; independent Claim 70; independent Claims 81-82 and dependent Claim 83; and independent Claim 84.

#### **Information Disclosure Statements (IDS's)**

Applicants acknowledge receipt of initialed copies of the PTO-1449 forms submitted to the Office with the IDS submissions mailed May 6, 2003; September 10, 2004; and April 7, 2004.

Applicants respectfully request initialed copies of the PTO-1449 forms submitted to the Office with the IDS submissions mailed August 19, 2003 (received by the Office August 22, 2003) and January 26, 2005 (received by the Office January 31, 2005).

#### **Double Patenting**

Claims 1-3, 5-46 and 55-80 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-25 of U.S. Patent No. 6,821,825 in view of U.S. Patent No. 6,161,498 ("Toraguchi"). The Office recognizes that the allegedly conflicting claims are not identical, but has taken the position that they are not patentably distinct from each other. Applicants respectfully disagree. However, to reduce prosecution costs, Applicants provide herewith a terminal disclaimer. This terminal disclaimer is not an admission of the propriety of the rejection. *See* M.P.E.P. § 804.02; *see also Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991) (noting that "the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection."). Applicants respectfully submit that the terminal disclaimer obviates the obviousness-type double patenting rejection, and therefore respectfully request that this rejection be withdrawn.

#### **Claim Rejections - 35 U.S.C. § 103(a)**

Claim 69 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikoma et al., Growth of Si<sub>3</sub>C-SiC/Si(100) heterostructures by pulsed supersonic free jets, Applied Physics

Appl. No. : 10/074,564  
Filed : February 11, 2002

Letters, 75(25) 3977-3979 (December 1999) ("Ikoma"). Applicants respectfully submit that this rejection is moot because Claim 69 has been canceled. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim 70 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,849,601 ("Yamazaki"). As discussed above, Claim 70 has now been amended to incorporate the limitations of Claim 71, which the Office has indicated would be allowable if rewritten in independent form. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim 76 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,385,020 ("Shin"). Applicants respectfully submit that this rejection is moot because Claim 76 has been canceled. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 77-80 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,591,494 ("Sato"). Applicants respectfully submit that this rejection is moot because Claims 77-80 have been canceled. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1, 21 and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikoma in view of Toraguchi. As discussed above, Claim 1 has now been amended to incorporate the limitations of Claim 2, which the Office has indicated would be allowable if rewritten in independent form. Claims 21 and 26 depend from Claim 1 and thus are also allowable for the same reasons as amended Claim 1. Furthermore, Claims 21 and 26 each recite additional limitations that, in combination with the limitations recited in Claim 1, further distinguish those claims from Ikoma and Toraguchi. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 27-29, 31, 33, 36 and 42 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki in view of Toraguchi. As discussed above, Claim 27 has now been amended to incorporate the limitations of Claim 32, which the Office has indicated would be allowable if rewritten in independent form. Claims 28-29, 31, 33, 36 and 42 depend from Claim 27 (in some cases by way of an intervening claim), and thus are also allowable for the same reasons as amended Claim 27. Furthermore, Claims 28-29, 31, 33, 36 and 42 each recite additional limitations that, in combination with the limitations recited in Claim 27, further

Appl. No. : 10/074,564  
Filed : February 11, 2002

distinguish those claims from Yamazaki and Toraguchi. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

### Conclusion

Applicants respectfully submit that this application is in condition for allowance, early notification of which would be appreciated. The Office is respectfully invited to contact the undersigned at the telephone number provided below with any questions regarding this application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/22/05

By: Joseph J. Mallon

Joseph J. Mallon  
Registration No. 39,287  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550

1432016\_1:032105